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FM AMEMBASSY NIAMEY
TO RUEHC/SECSTATE WASHDC 4818
RHMFIUU/DEPT OF JUSTICE WASHINGTON DC
RUEHAR/AMEMBASSY ACCRA 0505
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UNCLAS NIAMEY 000043

DEPT FOR AF/W, AF/RSA, AND L/DL
PLS PASS USAID FOR CG
ACCRA FOR USAID/WA
DAKAR FOR USAID RLA - H CRUZ-HUBBARD

SENSITIVE

SIPDIS

E.O. 12958: N/A

TAGS: [AMGT](#) [KLIG](#) [PGOV](#) [EAID](#) [USAID](#) [US](#) [NG](#)

SUBJECT: EMBASSY RECEIVES ATTY LETTER AND ANOTHER DIPLOMATIC NOTE
RE USAID SEPARATION OF FSN EMPLOYEES CASE

Ref: a) 08 Niamey 00736, b) State 01087, c) 08 State 963411

¶1. (U) On January 22, post received a diplomatic note and a letter from an attorney representing the former USAID FSN employees pertaining to a longstanding USAID issue concerning the separation of FSN employees when the USAID mission closed more than 10 years ago. The attorney also submitted 18 articles of evidence to the plaintiffs' dossier.

¶2. (SBU) The translation of the diplomatic note is as follows (unofficial Embassy translation):

(Begin text)

UNOFFICIAL TRANSLATION

REPUBLIC OF NIGER
NIAMEY, JANUARY 21, 2009

MINISTRY OF FOREIGN AFFAIRS AND COOPERATION

DIVISION OF JUDICIAL AFFAIRS AND DISPUTES

DIVISION OF SPECIAL STATUTES AND ANALYSIS OF DISPUTES

NO. 000500/MAE/C/DAJC/DSPAC2

The Ministry of Foreign Affairs and Cooperation of the Republic of Niger presents its compliments to the Embassy of the United States of America and has the honor to refer to its own Diplomatic Notes No. 06693/MAE/C/DAJC/DSPAC2 dated September 26, 2008, and No. 07255/MAE/C/DAJC/DSPAC1 concerning the matter of USAID against its former employees' case, and has the honor to transmit the following conclusions and articles of evidence the attorney of the interested parties intends to add to the Court of Appeals' file.

Furthermore, the Ministry would like to bring to the Embassy's attention the following:

According to a letter dated January 10, 2009 that the Counsel transmitted to the Ministry, it was notified that the file was pending in front of the Court of Appeals of Niamey, and will be appealed on hearing on January 22, 2009 to be held at the Palace of the aforementioned Court located on Tillaberi Road.

Moreover, USAID had dismissed its lawyer, and would no longer be represented in justice due to lack of a new counsel.

And, the interested party, who already has consented to three (3) adjournments by USAID, and since no reaction from USAID or the

Embassy has been recorded for the next hearing, justice will certainly pronounce the decision by default.

In that perspective, the Ministry would be grateful to the Embassy for having taken the necessary measures in order to avoid hindering the action of justice.

The Ministry of Foreign Affairs and Cooperation of the Republic of Niger avails itself of this opportunity to renew to the Embassy of the United States of America the assurance of its highest consideration.

EMBASSY OF THE UNITED STATES OF AMERICA
NIAMEY

(End text)

13. (SBU) The text of the attached letter from an attorney representing the former USAID FSN employees is as follows (unofficial Embassy translation):

(Begin text)

OFFICE OF LAWYER MANO SALAOU
B.P. 12 120, 396, Rue GM7 BALAFON,
Perpendiculaire au Boulevard de l'Indpendance, NIAMEY - NIGER
TEL./FAX : 20 73 40 06 E.mail : monamphi@yahoo.fr

Lawyer Mano Salaou, JD in Law, Cel. 96 96 40 35
Lawyer Moussa ASSOUMANE, Cel. 96 50 21 64

Niamey, January 10, 2009

Our reference: 016/SBS/05
Your reference: Embassy of the United States of America
CASE: BOUBACAR ADAMOU AND 65 OTHERS AGAINST USAID

Your Excellency, Madam Ambassador,

I have the honor to transmit to you the enclosed conclusions and articles of evidence that I will add to the Courts' file in favor of Boubacar ADAMOU and his 65 colleagues.

The file will be called during the hearing of the Court of Appeals on January 22, 2009 to be held at the Palace of the aforementioned Court located on Tillaberi Road.

During the latest hearing, the adjournment has been done for USAID and the Federation of the United States. Since you have dismissed your counsel, I am obliged to communicate directly with you.

Please let the Court know if you intend to hire a new lawyer.

If there is no reaction from your part, the case will be judged by default against USAID and the Federation of the United States.

Please accept the expression of my highest consideration.

/s/Lawyer Mano SALAOU

Attachments: 1 statement and 18 articles of evidence.

(End text)

14. (SBU) The 18 articles of evidence added to the former USAID FSN employees' dossier by their attorney will be scanned and sent to L/DL and USAID RLA Cruz-Hubbard for review. The documents include items of correspondence on the case, principally from USAID or the Ministry of Labor.

15. (SBU) Background: USAID RLA Haven-Cruz Hubbard traveled to Niamey in October 2008 to review the documentation related to this case and meet with the local attorney that had represented USAID in numerous court actions over the past ten years. RLA subsequently requested and received a formal update and opinion on the April 2002 Nigerien Supreme Court decision in this case. RLA instructed the local attorney to represent USAID at a hearing before the Court of Appeals originally scheduled for October 9, 2008, but postponed

until November 6, 2008. The local attorney informed the court at that time that he was no longer authorized to represent USAID in this case.

16. (SBU) Comment: USAID RLA subsequently drafted a diplomatic note in response to the GON's previous diplomatic note, dated September 26, 2008, which is currently with L/DL for clearance pending consultation with USAID/CG and DOJ. This draft diplomatic note advises the GON that the USG is informed and believes that it made sufficient and proper payments to all of its employees as of the time each was separated. The note confirms that USAID local counsel in Niger prepared an opinion advising that the opinion of the Supreme Court of Niger is still valid and due to the sovereign immunity the U.S. Government remains immune from suit in Nigerien courts. The note also asks that all communications on these matters cease and desist and advises that any further written correspondence on this subject will be returned unanswered to the MFA.

ALLEN